

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ MAR 25 2014 ★  
BROOKLYN OFFICE

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
TRUSTTES OF THE METAL POLISHERS :  
LOCAL 8A-28A FUNDS, :  
:

Plaintiffs, :

-against- :

SUPERIOR MAINTENANCE, INC., :

Defendants. :  
-----X

**MEMORANDUM & ORDER**

12-cv-768 (ENV) (RML)

VITALIANO, D.J.,

On November 4, 2013, Magistrate Judge Robert M. Levy issued his Report & Recommendation ("R&R") granting plaintiffs' motion for default judgment and awarding plaintiffs the right to conduct an audit of defendants' books and records for the period January 1, 2008 through December 31, 2010 as well as \$350 in costs, but denying without prejudice plaintiffs' request for \$2,500 in attorneys fees due to plaintiffs failure to submit sufficiently detailed billing records.

In reviewing an R&R of a magistrate judge, a district judge "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). A district judge is required to "make a *de novo* determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made" by any party. Fed. R. Civ. P. 72(b). But, where no timely objection has been made, the "district court need only satisfy itself that there is no clear error on the

face of the record” to accept a magistrate judge’s report and recommendation.

*Urena v. New York*, 160 F. Supp. 2d 606, 609–10 (S.D.N.Y. 2001) (quoting *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)).

The R&R gave proper notice that any objection must have been filed within 14 days. Neither plaintiffs nor defendants have objected to Judge Levy’s R&R, much less within the time prescribed by 28 U.S.C. § 636(b)(1). In accord with the applicable standard of review, the Court finds Judge Levy’s R&R to be correct, well-reasoned and free of any clear error. The Court, therefore, adopts it in its entirety as the opinion of the Court

#### Conclusion

Accordingly, plaintiffs are awarded, after inquest, \$350 in costs and the right to conduct an audit of defendants’ books and records as set forth in Judge Levy’s R&R. Further, the Court denies plaintiffs request for attorneys fees without prejudice as recommended by Judge Levy.

**SO ORDERED.**

**Dated: Brooklyn, New York  
March 18, 2014**

  
s/Eric N. Vitaliano

  
**ERIC N. VITALIANO**  
United States District Judge